

EXHIBIT A

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet

County

For Prothonotary Use Only:

Docket No:

2021-CV-5787-CV

 Pd. 202.00
 2021 CIVIL - 1
 PROthonotary
 STANDARDS
 10/11/21

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

Jennifer Hynes

Lead Defendant's Name:

Derry Township School District

Are money damages requested? ☒ Yes ☐ No
 Dollar Amount Requested: ☐ within arbitration limits
☒ outside arbitration limits
 (check one)
Is this a Class Action Suit? ☐ Yes ☒ NoIs this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Andrew W. Barbin

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your PRIMARY CASE. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other: _____

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other: _____

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional: _____

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other _____

- ☐ Employment Dispute: Discrimination
☐ Employment Dispute: Other _____

- ☒ Other: Breach of services contract and 1983 action

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other: _____

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other _____

- ☐ Zoning Board
☐ Other: _____

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
☐ Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other: _____

Andrew W. Barbin, Esquire
Atty I.D. 43571
ANDREW W. BARBIN, P.C.
5 Kacey Court, Suite 203
Mechanicsburg, PA 17055

RECEIVED
OFFICE OF THE
PROthonary
2021 JUL - 7 PM 1:10
DAUPHIN COUNTY
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS FOR DAUPHIN COUNTY, PENNSYLVANIA

JENNIFER L. HYNES

AND

TEAMCARE BEHAVIORAL HEALTH LLC

Plaintiffs,

v.

DERRY TOWNSHIP SCHOOL DISTRICT

Defendant

DOCKET NO.

2021-G-5787-CV

Jury Trial Demanded

COMPLAINT

Plaintiffs, by and through counsel, Andrew W. Barbin, P.C., hereby files this Complaint against Defendant Derry Township School District (hereinafter "DTSD" or "Defendant"), and avers as follows:

PARTIES

1. Plaintiff, Jennifer L. Hynes, is an adult female resident of Pennsylvania and CEO of the co-plaintiff below, residing at 232 Highland Road, Hershey, PA 17033 (hereinafter "Hynes" or "Plaintiff").

2. Plaintiff, TEAMCare Behavioral Health, LLC ("TEAMCare" or "Plaintiff") is a Pennsylvania limited liability corporation with main office at 1808 Colonial Village Lane, Suite 103, Lancaster, Pa 17601, and a local office at 5570 Derry Street, Harrisburg, Pa 17111.

7/6

3. Defendant, Derry Township School District, is a public school district and local agency under Pennsylvania law, with business office address at 30 E. Granada Avenue, Hershey, PA 17033 (hereinafter "DTSD" or "Defendant").

JURISDICTION AND VENUE

4. Defendant is located in Dauphin County.
5. Plaintiffs work and regularly do business in Dauphin County.
6. TEAMCare provides contract services to DTSD.
7. The material events giving rise to the claims occurred in Dauphin County.
8. Jurisdiction and venue over all claims is proper in Dauphin County, Pennsylvania.

FACTS COMMON TO ALL COUNTS

9. Plaintiff Hynes is CEO of Plaintiff TEAMCare.
10. TEAMCare provides Community Based Outpatient Services to various school districts in Central Pennsylvania.
11. In 2018 DTSD contracted with TEAMCare to provide Community Based Outpatient Services to DTSD schools. See Exhibit A.
12. Services were further defined as "Psychological Services (Service) by the mutual agreement of the Company and the School District. Specifically, the Company may perform any of the following services:
 - a) Provide outpatient therapy services to identified Derry Township School District students; and,
 - b) Provide other psychological-related services as School District and Company needs require.



13. The term of the agreement was as follows: "This Agreement will become effective on August 27, 2018, and *will renew every year unless that term is terminated in writing by mutual agreement between us.*" (Emphasis added).

14. During the time from March 2020 to the June 2021, there has been an unprecedented increase in the amount and severity of mental health issues for children of school age. See e.g. Mental Health in High School Students at the Time of COVID-19: A Student's Perspective J Am Acad Child Adolesc Psychiatry. 2020 Dec; 59(12): 1309–1310; Published online 2020 Aug 26. doi: 10.1016/j.jaac.2020.08.005; School During The Pandemic: Mental Health Impacts On Students (NAMI California) (collecting studies, surveys and articles).

15. Limitations on high school mental health resources have been a national rather than merely local concern. See e.g. Students returning to school after COVID-19 facing scarce mental health resources (USAToday, May 30, 2021); Marion Callahan, Mental health, testing mandates top concerns of PA educators as COVID continues (Bucks County Courier Times)(published March 3, 2021, updated March 5, 2021).

16. The Federal Department of Health, in its publication ED Covid 19 Handbook: Roadmap to Reopening Safely and Meeting All Student's Needs, Vol. 2 (2021) at page 10 observed:

Supporting Student Mental Health Needs

In addition to meeting the social and emotional needs of students, schools should also be prepared to meet the mental health needs of their students. There is no question that COVID-19 has taken a toll on the mental health of many students. For example, data from CDC shows that the proportion of student emergency department visits related to mental health has increased dramatically during the pandemic. A National Association of Elementary School Principals survey reported in December that 84% of elementary school principals are very concerned about student mental health needs and 68% report that they do not have sufficient school-based mental health professionals to adequately meet those needs.



17. Jennifer Hynes attended the March 22, 2021 DTSD School Board meeting, as a concerned citizen with detailed direct knowledge of the concerns above and the impact of Covid on DTSD resources for the mental health services to its students.

18. Her comments appear in full in the public comment section of the meeting (at 3:08:42 of the audio recording posted by DTSD at:

<https://www.hershey.k12.pa.us/cms/lib/PA09000080/Centricity/Domain/677/3-22-2021Board.mp3>

The gist of her comments were directed to underutilization and understaffing in the social service position. She observed that her company provides services to other districts as well as DTSD, and that only 6 DTSD students were served, which was dramatically lower than other districts, even smaller ones. She observed that DTSD had only one social worker and that they probably needed three more social workers given the number of students and variety of issues they face. She invited the Board to contact her with any questions regarding services her company provided.

19. She expressed concerns echoed throughout the education and mental health communities across America, which existed long before Covid exacerbated them.

20. She did so in a polite and factual manner expressing sincere desire to assist DTSD to meet the unprecedented needs without criticism or blame.

21. Within days, she received a letter from then DTSD School Board President John Abel that TEAMCare services would not be renewed for the coming year.

22. There was no Notice and Opportunity to be heard as to any perceived concerns, and no formal Board action at any meeting prior or subsequent to the issuance of the letter.

23. It is believed and averred that one or more administrative personnel and/or school board members took offence at the public comments and retaliated by directing the wrongful termination of the TEAMCare contract.

24. Mr. Abel acted with actual or apparent authority as agent of DTSD.

25. April 20, 2021, Plaintiff Hynes on behalf of herself and Plaintiff TEAMCare texted Mr. Abel, "Just received the letter signed by you. This is complete retaliation since I spoke up about the lack of services in the schools."

26. Mr. Abel, provided no justification for the action or response to the retaliation assertion, and instead suggested they would have to "agree to disagree."

27. There was not, and is not, an agreement between DTSD and TEAMCare to terminate the agreement as provided in the agreement.

28. The agreement by its express terms *automatically* renews from year to year in absence of *mutual* agreement to terminate and was in effect a "requirements" contract.

29. No material breach by TEAMCare was alleged or established prior to the anticipatory repudiation.

30. Pretext may be implied by the fact that DTSD did not terminate the contract *for breach* but merely provided notice of *future* nonrenewal, allowing current services to continue until the renewal/termination date.

31. The proffered non-renewal *without cause* is an anticipatory breach of the contract and particularly the term provision thereof.

32. Termination was in fact retaliatory against Plaintiffs because of the protected speech of Plaintiff Hynes at the March 22, 2021 DTSD School Board Meeting.

33. The notice of termination is not consistent with the terms of the contract, due process or the First Amendment rights of Plaintiff Hynes.

34. Prior to her First Amendment protected comments at the school board meeting, there was no issue which would have impacted continuation of services and no notice of any concern to be addressed in that respect.



35. Any claim that the decision was based on any performance ground would be false, defamatory and wrongfully derogatory of Plaintiff TEAMCare which maintains exemplary services and an impeccable reputation.

36. It is not known, at this time, which individual Board Members and/or administrative personnel were responsible for the purported non-renewal/retaliation.

37. Upon discovery, leave will be sought to add additional defendants as appropriate.

38. It is not known even whether Mr. Abel participated in the purported Board decision, or merely communicated a decision by others, as there is no public record of board action lawfully and formally being taken.

**Count I – Breach of Contract
(TEAMCare against DTSD)**

39. Paragraphs 1 to 38 are incorporated by reference as if restated verbatim.

40. The notice of non-renewal was an anticipatory breach of the contract with Plaintiff TEAMCare.

41. TEAMCare will suffer loss of contract related income in an unliquidated amount as a direct, proximate and foreseeable consequence of the breach.

42. When additional responsible parties are identified, leave to amend may be sought as appropriate, as to intentional interference with contractual relations.

Wherefore, Plaintiff TEAMCare seeks judgment on Count I for Plaintiff TEAMCare and against DTSD for compensatory damages in an unliquidated amount in excess of the local arbitration amount, together with such other relief as this Court may deem just.

**Count II – Defamation and Disparagement
(both Plaintiffs against DTSD)**

43. Paragraphs 1 to 42 are incorporated by reference as if restated verbatim.



44. It is believed and averred that agents of DTSD have communicated false, defamatory and disparaging, pretextual reasons for termination of the TEAMCare contract to DTSD parents and others.

45. Such communications have and will directly, proximately and foreseeably cause Plaintiff Hynes and Plaintiff TEAMCare loss of reputation and economic injury in unliquidated amounts.

46. The specific participants, as well as time, date and place of such communications is not yet known.

47. Leave to amend will be sought when the details are exposed in discovery.

Wherefore, Plaintiff TEAMCare and Plaintiff Hynes seek judgment on Count II for Plaintiff TEAMCare and Plaintiff Hynes against DTSD for compensatory damages in an unliquidated amount in excess of the local arbitration amount, together with such other relief as this Court may deem just.

**Count III 1983 Action
(Plaintiff Hynes against DTSD)**

48. Paragraphs 1 to 47 are incorporated by reference as if restated verbatim.

49. DTSD is a public School District (local agency) and state actor for purposes of 1983 action liability.

50. DTSD wrongfully terminated the contract of TEAMCare in retaliation for Plaintiff Hynes's exercise of First Amendment petition and free speech rights in violation of Plaintiff Hynes individual constitutional rights and to the injury of her property rights as an owner of TEAMCare in respect to the improperly terminated contract.

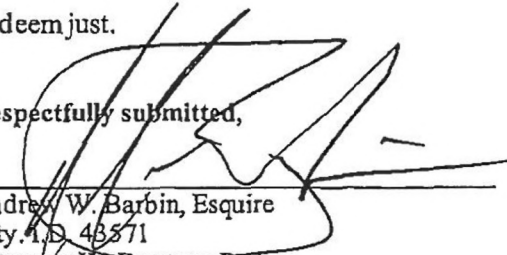
51. The wrongful retaliatory termination is actionable under 42 U.C.S § 1983 as a violation of Plaintiff Hynes' Constitutional rights.

52. It is believed and averred that as yet unknown school board and/or administrative personnel caused the actionable conduct, by individual willful misconduct which caused the actionable conduct by and on behalf of DTSD, and a motion to amend this claim will be made when discovery discloses the individuals responsible for the actionable conduct of DTSD.

53. Plaintiff Hynes has and will suffer direct, proximate and foreseeable economic and reputational injury in an unliquidated amount as the result of the violation of her constitutional rights.

Wherefore, Plaintiff Hynes seeks judgment on Count III for Plaintiff Hynes and against DTSD for compensatory damages in an unliquidated amount in excess of the local arbitration amount, together with such other relief as this Court may deem just.

Respectfully submitted,



Andrew W. Barbin, Esquire
Atty. No. 43571
ANDREW W. BARBIN, P.C.
5 Kacey Court, Suite 102
Mechanicsburg, PA 17055
717-421-7383

Attorney for Plaintiff

Date: June 24, 2021



Behavioral Health, LLC

Corporate Office-Lancaster County

1808 Colonial Village Lane

Suite 103

Lancaster, PA 17601

Phone (717) 391-0172 Fax: (717) 391-7771

Satellite Office - Dauphin County

5570 Derry Street

Harrisburg, PA 17111

Phone (717) 525-9804 Fax: (717) 525-9862

TEAMCare Behavioral Health, LLC

1808 Colonial Village Lane

Lancaster, PA 17601

August 16, 2018

Derry Township School District

30 E. Granada Ave #200

Hershey, PA 17033

Letter of Agreement: Community Based Outpatient Program (CBOP)

Dear Lisa Sviben Miller,

This letter is an agreement between the parties of TEAMCare Behavioral Health, LLC and Derry Township School District. Both parties have agreed that TEAMCare Behavioral Health, LLC will provide Community Based Outpatient Services in identified schools throughout the district. This agreement is at this moment signed by a representative of Derry Township School District and the Chief Operating Officer of TEAMCare Behavioral Health, LLC.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristina Colligan".

Kristina Colligan

Chief Operating Officer

cc: Jennifer L. Hynes, CEO/President of TEAMCare Behavioral Health, LLC

Phone: 717.391.0172

Fax: 717.391.7771



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Harrisburg, PA 17111
Phone (717) 525-9804 Fax: (717) 525-9882

Letter of Agreement

Derry Township School District
30 E. Granada Ave #200
Hershey, PA 17033

This letter summarizes the agreement between TEAMCare Behavioral Health, LLC and the Derry Township School District regarding the Community Based Outpatient Program (CBOP).

As I understand it, we have agreed to as follows:

1. Agreement

TEAMCare Behavioral Health, LLC will provide Community Based Outpatient services to the Derry Township School District students at identified schools within the district.

Terms will be delineated below.

2. Term

This Agreement will become effective on August 27, 2018 and will renew every year, unless that term is terminated in writing by mutual agreement between us.

3. TEAMCare Behavioral Health, LLC (the "Company") Services and Responsibilities.

The Company shall provide professional services in the area of:

Psychological Services ("Services") by the mutual agreement of the Company and the School District. Specifically, the Company may perform any of the following services:

- a) Provide outpatient therapy services to identified Derry Township School District students; and
- b) Provide other psychological-related services as School District and Company needs require.

The Company certifies that they are an independent business and have the knowledge/skills and equipment to provide the services outlined in this scope of Services and Responsibilities. The Company also certifies that they have a proprietary interest in their own business. The Company further certifies that it has the facilities and equipment to accomplish most of these services, exclusions may be:

- a) Use of the School District's space and technologies (such as use of Internet connection) to accomplish services for students.

The Company agrees that it shall maintain liability insurance during the term of this Agreement and provide proof of such insurance to the School District, listing the Derry Township schools as the "Additional Insured" upon initiation of this Agreement or before performance of services thereunder. The Company agrees to provide copies of its insurance proof to the School District and other such proof of licensure as required.

4. Confidentiality.

In the course of performing services, the parties recognize that the Company and School District may come in contact or become familiar with students' and/or family's information or other information that each party or its subsidiaries or affiliates may consider

Phone: 717.391.0172
Fax: 717.391.7771

confidential. The Company and School District agrees to keep all such information confidential and not to discuss or divulge it to anyone other than appropriate personnel or their designees.

The Company agrees to follow all HIPAA Rules and Regulations in maintaining the patient's confidentiality with respect to all information.

5. Miscellaneous.

a. Entire Agreement and Amendments. This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and replaces and supersedes all other agreements or understandings, whether written or oral. No amendment or extension of this Agreement shall be binding unless in writing and signed by both parties.

b. Governing Law, Severability. This Agreement shall be governed by the laws of the State of Pennsylvania. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remainder of the Agreement shall remain in full force and effect and shall in no way be impaired.

c. Liability. The Company is liable for the work he/she performs under the terms of this Agreement and is responsible to perform at the times/places mutually agreed upon between the Company and the School District.

Company:

TEAMCare Behavioral Health, LLC

Date

Spencer Office, LLC
8/21/18

School District Representative:

(Name)


Kathy L. Sichen
Full Name or Business Name Printed

[Signature]
Signature of Representative

Date 8/27/18

Lisa M. Sichen-Miller

I, Jennifer Hynes, in my individual capacity and as authorized representative of TEAMCare, do hereby state that the statements made in the foregoing Complaint are true and correct based upon my knowledge information and belief. I understand that false statements are made subject to penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


Jennifer L. Hynes

Dated: June 24, 2021